

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-69940

WHYCO FINISHING TECHNOLOGIES, LLC,

Chapter 11

Debtor.

Judge Thomas J. Tucker

**ORDER REQUIRING THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
TO AMEND FIRST AMENDED DISCLOSURE STATEMENT**

On July 30, 2009, the Official Committee of Unsecured Creditors (the “Committee”) filed a plan and disclosure statement, in a document entitled “Official Committee of Unsecured Creditors’ First Amended Combined Liquidating Plan of Reorganization and Disclosure Statement” (Docket # 178).¹ The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problem, which the Committee must correct.

Article III, Paragraph E of the Plan on page 16 states, in relevant part: “The occurrence of the Effective Date will terminate the rights and interests of equity interests of equity security holders. Until the Effective Date, existing holders of Equity Interests will retain ownership of their respective Equity Interest.” Article I, Paragraph 18 of the Plan on page 8 states that “‘Effective Date’ means the date the Committee, in its discretion, files with the Bankruptcy Court a Notice of the Occurrence of the Effective Date.” And Article V, Paragraph A on page

¹ The Court has not yet issued an order regarding preliminary approval of the disclosure statement contained in Debtor’s Third Amended Plan, etc., filed July 30, 2009 (Docket # 175). Debtor failed to timely submit to chambers a redlined version of that plan/disclosure statement. The redlined version was due to be submitted no later than July 30, 2009. (*See* Order, Docket # 171, filed July 27, 2009 at p. 2 (stating a July 29, 2009 deadline, which the Court extended to July 30, 2009 during the hearing held in this case on July 29, 2009)). Debtor’s counsel did not submit the redlined version until 3:54 p.m. on August 3, 2009.

18 indicates that the “Effective Date” is to occur sometime after the contemplated auction of Debtor’s business.

The definition of Effective Date” is inadequate. The Committee must give a date certain for the Effective Date, even if the Effective Date is to occur after the auction, rather than leaving it in the Committee’s discretion to choose and designate the Effective Date after confirmation. And the Committee must state who will own the stock of the Debtor after the Effective Date, in the event that the auction does not involve or include a sale of all of the stock in the Debtor.

Accordingly,

IT IS ORDERED that the Committee must file, no later than **August 6, 2009**, an amended combined plan and disclosure statement which corrects the above stated problems.

IT IS FURTHER ORDERED that the Committee also must provide to Judge’s chambers, no later than **August 6, 2009**, a redlined version of the amended combined plan and disclosure statement, showing the changes the Committee has made to the “Official Committee of Unsecured Creditors’ First Amended Combined Liquidating Plan of Reorganization and Disclosure Statement” filed July 30, 2009. The Committee must submit this redlined document to chambers electronically, through the Court’s order submission program.

Signed on August 03, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge